

Message Text

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E.O. 11652: NA

TAGS: ILO

SUBJECT: JOINT DANISH-CANADIAN PROPOSED AMENDMENT TO
ARTICLE 17

REF: (A) GENEVA 1883; (B) GENEVA 1899; (C) GENEVA 2155

1. THE FOLLOWING ARE COMMENTS ON THE JOINT DANISH-CANADIAN
PROPOSED CHANGES TO ARTICLE 17 CONTAINED IN REF (C). US
EMPLOYERS AND WORKERS HAVE REPEAT NOT REPEAT REVIEWED THESE
STATEMENTS. IF STILL TIMELY, MISSION MAY DRAW ON THE FOL-
LOWING IN DISCUSSIONS RE SUBJECT:

2. US CONTINUES TO PREFER EXISTING GOVERNING BODY PROPOSAL,
BUT RECOGNIZES IT IS REGARDED BY MANY AS OVERLY COMPLICATED,
AND THAT SIMPLIFIED VERSION IS DESIRABLE. TO EXTENT THAT
LANGUAGE IS SIMPLIFIED, HOWEVER, WE HOPE IMEC MEMBERS WILL
KEEP IN MIND THAT PURPOSE OF AMENDMENT IS TO ENSURE THAT
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DUE PROCESS IS OBSERVED BY CONFERENCE IN DEALING WITH CON-
DEMNATORY RESOLUTIONS.

3. WE SEE FOLLOWING PROBLEMS WITH SUBJECT PROPOSAL:

(A) SUBPARA (2) SHOULD ALSO INCLUDE A REFERENCE TO
RESOLUTIONS WHICH REFER TO THE "POLICIES" OF A MEMBER STATE

TO COVER SITUATIONS WHERE A POLICY (E.G. ZIONISM) IS BEING ATTACKED.

(B) CONCEPT OF RELYING ON OFFICERS OF THE CONFERENCE TO MAKE DECISIONS ON CIRCULATION OF RESOLUTIONS, AS PROPOSED IN SUBPARA (4), RAISES SEVERAL PROBLEMS; FOR INSTANCE TERM "OFFICERS OF THE CONFERENCE" NORMALLY INCLUDES PRESIDENT AND THREE VICE PRESIDENTS, THEREFORE UNFAVORABLE DECISIONS WOULD LIKELY BECOME COMMONPLACE BECAUSE PRESIDENT COMES FROM G-77 MEMBER THREE YEARS OUT OF FOUR WHILE GOVERNMENT VICE PRESIDENT IS TRADITIONALLY FROM EASTERN EUROPE. WE CONTINUE TO PREFER TO LEAVE DECISION IN HANDS OF GOVERNING BODY OFFICERS; HOWEVER, OPTIONS ARE: (1) TO RELY ON COMBINED OFFICERS OF THE CONFERENCE TOGETHER WITH OFFICERS OF THE GOVERNING BODY; (2) TO DEFINE "OFFICERS OF THE CONFERENCE" TO INCLUDE THE SECRETARY GENERAL OF THE CONFERENCE (I.E., THE DIRECTOR GENERAL OF THE ILO); (3) TO REQUIRE A UNANIMOUS DECISION BY THE OFFICERS OF THE CONFERENCE TO CIRCULATE A RESOLUTION WHICH HAD BEEN WITHHELD, AS SUGGESTED IN THE CANADIAN GOVERNMENT AND SWEDISH EMPLOYER'S PROPOSALS; OR (4) TO PROVIDE THAT A TIE VOTE WOULD RESULT IN A RESOLUTION CONTINUING TO BE WITHHELD. CANADIAN-DANISH TEXT DOES NOT EVEN REFER TO A "MAJORITY" OF THE OFFICERS IN SUBPARA 5. (WHATEVER OPTION IS CHOSEN, IN ORDER TO AVOID ANY ACTION BASED ON PRELIMINARY AD LIMITED OFFICIAL USE

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REFERENDUM CONCLUSIONS, THE WORD "FINAL" SHOULD BE INSERTED BEFORE THE WORD "CONCLUSION" IN SUBPARA 5.)

(C) RE: PARA (6), WE AGREE WITH PROVISION AS IT RELATES TO SITUATION WHERE MEMBER COUNTRY HAS STALLED ILO INVESTIGATION. USE OF THIS PROVISION IN OTHER SITUATIONS, HOWEVER, IS DANGEROUS. FIRST, THE ONLY TIME WE CAN THINK OF WHEN NO ESTABLISHED ILO PROCEDURES ARE AVAILABLE ARE IN THE CASE OF FORMER ILO MEMBER WHICH HAS WITHDRAWN FROM ILO (EVEN HERE ECOSOC CHANNELS MAY BE OPEN), OR IN THE CASE OF A MEMBER WHICH HAS NOT RATIFIED THE APPROPRIATE ILO CONVENTIONS. IN THIS LATTER CASE, AS A GENERAL PRINCIPLE ILO SHOULD REJECT CONDEMNATION OF A MEMBER FOR ITS ALLEGED FAILURE TO ADHERE TO ILO STANDARDS WHICH IT HAS NEVER OFFICIALLY ACCEPTED THROUGH RATIFICATION. SECOND, THE "EMERGENCY" PROVISION REPRESENTS GIGANTIC LOOPHOLE SINCE ALL CONDEMNATORY RESOLUTIONS COULD BE CAST IN TERMS OF A "NEW EMERGENCY." FURTHER, TO PROVIDE THAT DUE PROCESS IN THE ILO MAY BE CIRCUMVENTED BECAUSE OF EMERGENCY SITUATION REPRESENTS A TERRIBLE PRECEDENT FOR AN ORGANIZATION LIKE THE ILO WHICH REGULARLY STRIVES TO REINSTITUTE DUE PROCESS FOR JAILED TRADE UNIONISTS BEING HELD WITHOUT CHARGES OR

TRIAL BY GOVERNMENTS ACTING UNDER "EMERGENCY" AUTHORITY.

FINALLY, WE SUGGEST AT THE END OF SUBPARA (6) A NEW SENTENCE BE INSERTED: "AN OFFICER OF THE CONFERENCE WHO IS A NATIONAL OF THE MEMBER STATE CONCERNED SHALL NOT PARTICIPATE IN SUCH A DECISION." WITHOUT SUCH A CLAUSE IT WOULD OBVIOUSLY BE IMPOSSIBLE TO EFFECTIVELY UTILIZE THE PROCEDURE AGAINST THE STATES OF BOARD OFFICERS.

4. RE SUBPARA 7 THE CLAUSE: "AS DETERMINED BY A MAJORITY OF THE OFFICERS AFTER EXAMINATION OF THE RESUBMITTED RESOLUTIONS PURSUANT TO SUBPARAS 5 AND 6 OF THIS PARA SHOULD BE INSERTED BETWEEN THE PHRASES "STANDARDS OF APPLICABILITY" AND "IF THE DECISION IS THAT." THIS LIMITED OFFICIAL USE

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LANGUAGE IS DESIGNED TO INSURE THAT OFFICERS KEEP CONTROL PURSUANT TO THE AMENDED ARTICLE 17 PROCEDURES OF THE RESUBMITTED RESOLUTIONS. VANCE

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